IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL NO. 629 OF 2005
In
CIVIL APPLICATION NO. 2716 OF 2005
In
SPECIAL CIVIL APPLICATION NO.15600 OF 2004

With

CIVIL APPLICATION NO. 3899 OF 2005
In
LETTERS PATENT APPEAL NO.629 OF 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SUBURBHAI HUMALABHAI MAVI - Appellant(s)
Versus
STATE OF GUJARAT - Respondent(s)

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Appearance :
MR. B.J. TRIVEDI for Appellant.
MR. J.T. TRIVEDI for Appellant.
MS. PAURAMI SHETH, AGP for Respondent.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG
and
HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 03/08/2005

COMMON ORAL JUDGMENT
(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. After raising certain arguments, the learned Counsel for the appellant submits that by securing stay against reinstatement, the respondent/original petitioner was trying to steal an illegal march over the appellant because on one side, they were not ready to reinstate the appellant and at the same time, they are not even ready to pay the current wages with other benefits to the appellant under Section-17(B). His submission is that stay against the reinstatement puts the respondent-original petitioner into a better position because they would refuse to join the appellant, meaning thereby, they would not pay him the current wages and at the same time, even under Section-17(B), they would not pay the current wages. His submission is that this aspect of the matter was required to be considered by the learned single Judge.

2. From the order passed by the learned single Judge, it does not appear that such arguments were raised before the learned single Judge. Mr.Trivedi, learned Counsel for the appellant, however, submits that he be allowed to withdraw the Letters Patent Appeal with a liberty in his favour to make an application to the learned single Judge to recall the original orders, staying the operation of the reinstatement

order, or to pursue the learned single Judge that in view of the judgements of the Supreme Court, the petitioner may be given the better benefits subject to his furnishing security/guarantee/undertaking to the satisfaction of the competent authority for restitution in case he loses in the matter. The submission appears to be justified. The appeal is allowed to be withdrawn with the liberty aforesaid. Rule is discharged.

3. At this stage, the learned Counsel for the appellant submits that the wages, as required to be paid under the directions of the Court, have not been paid in full. If that be so, this can also be raised as a ground before the learned single Judge.

4. Consequently, the Civil Application also stands disposed of.

[***R.S.Garg, J.***]

[***Ravi R.Tripathi, J.]***

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